

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JASON SCOTT HOUNIHAN,

Plaintiff,

v.

JOSE C. VILLASENOR,

Defendant.

No. 1:23-cv-00163-EPG (PC)

ORDER DENYING PLAINTIFF'S MOTIONS
FOR ADDITIONAL DISCOVERY

(ECF No. 62, 66)

Plaintiff Jason Scott Hounihan is a prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action filed pursuant to 42 U.S.C. § 1983. This case proceeds on Plaintiff's Eighth Amendment sexual assault claim against Defendant Villasenor based on Plaintiff's allegations that Defendant instructed medical personnel to inspect Plaintiff's rectum for contraband even though an x-ray revealed no contraband. (ECF No. 5).

Now before the Court are Plaintiff's Request for Additional Discovery (ECF No. 62) and Plaintiff's Motion to Obtain More Discovery (ECF No. 66), both of which are denied for the reasons stated below.

I. BACKGROUND

In his Request for Additional Discovery filed on December 22, 2023, Plaintiff asks for more requests for admissions and interrogatories because he "was under the impression that the stipulated amount of discovery was 15 interrogatories, 15 requests for admissions, and 15

1 production of documents, in sets not just 15 questions.” (ECF No. 62 at 1). Plaintiff states that
2 this additional discovery is necessary so that he can question Defendant on alleged
3 inconsistencies in responses because “the Defendant denies things that he admits in
4 interrogatories when it comes to his responses to request to admissions [sic].” (ECF No. 62 at 2).
5 Plaintiff also questions “why it is so easy for the Defendant to do depositions. In the schedule
6 order. Yet its so complicated for me the plaintiff to do so?” (*Id.*) Plaintiff argues that he has “to do
7 all these things that are impossible from where I sit” while “the Defendant can just do it without
8 any court reporter or any specific requirements, via video conference.” (*Id.*)

9 In his Motion to Obtain Discovery filed on January 17, 2024, as in his previous Request
10 for Additional Discovery, Plaintiff again states that he was “under the impression that [he] was
11 able to send 15 sets of interrogatories, 15 sets of production of documents and 15 sets of requests
12 for admissions, not just 15 questions.” (ECF No. 66 at 1). Plaintiff says that Defendant has
13 “stopped answering my questions at number 15, and this is not enough discovery to obtain the
14 evidence I need.” (*Id.*) Plaintiff again argues that Defendant’s answers are inconsistent: “from one
15 question to the next, I am seeing a complete flat out different answer that is inconsistent and
16 contradictory from the last.” (*Id.* at 2). As in his previous motion, Plaintiff argues that more
17 discovery is necessary to explore these inconsistencies to distinguish “the truth from the lies” and
18 to expose corruption “inside of the justice system . . . before it evolves any further.” (*Id.*) Plaintiff
19 seeks “3 more sets of interrogatories and 3 more sets of request for admissions,” (*id.* at 1), but
20 does not define what he means by “a set.”

21 Defendant filed a Statement of Non-Opposition (ECF No. 65) to Plaintiff’s Request for
22 Additional Discovery (ECF No. 62), detailing the amount of discovery Plaintiff has requested by
23 the time of filing of Defendant’s Response, January 9, 2024. In four months since the Court
24 issued its Scheduling Order on September 7, 2023 (ECF No. 34), Plaintiff has served on
25 Defendant five Requests for the Production of Documents, 45 Requests for Admissions, and 63
26 Interrogatories. (ECF No. 65 at 3).

27 **II. LEGAL STANDARDS**

28 Federal Rule of Procedure 26(b)(1) defines the scope of discovery:

1 Parties may obtain discovery regarding any nonprivileged matter
2 that is relevant to any party's claim or defense and proportional to
3 the needs of the case, considering the importance of the issues at
4 stake in the action, the amount in controversy, the parties' relative
5 access to relevant information, the parties' resources, the
6 importance of the discovery in resolving the issues, and whether
7 the burden or expense of the proposed discovery outweighs its
8 likely benefit.

9 The Court has broad discretion to permit or deny discovery. *Hallett v. Morgan*, 296 F.3d
10 732, 751 (9th Cir. 2002).

11 Moreover, the Court's scheduling order in this case states as follows:

12 A party may serve on any other party no more than 15
13 interrogatories, 15 requests for production of documents, and 15
14 requests for admission. If a party wishes to serve additional
15 discovery requests, that party may file a motion for additional
16 discovery requests with the Court, explaining why additional
17 discovery requests are necessary.

18 (ECF No. 34 at 3).

19 **III. ANALYSIS**

20 Plaintiff's motion asks for additional discovery because he was under the impression that
21 the Court limits applied to "sets" of discovery and not individual requests. In other words, he
22 believed that he was entitled to serve 15 sets of discovery requests of each type to each defendant.

23 This is not a credible understanding of the Court's scheduling order. The order clearly
24 states that "A party may serve on any other party no more than 15 interrogatories, 15 requests for
25 production of documents, and 15 requests for admission." (ECF No. 34 at 3). Moreover, it is not
26 credible to believe that each party was permitted 15 "sets" of each type of discovery, without any
27 limit to the number of requests in each set.

28 Plaintiff also has not established good cause to increase these limits. Plaintiff does not
describe any particular subject matter or topic he wishes to pose in additional discovery. Instead,
he refers generally to inconsistencies in responses, without referring to any such inconsistency or
topic. Furthermore, Defendants' opposition (ECF No. 65) indicates that Plaintiff is serving unduly
burdensome discovery requests.

1 Moreover, Plaintiff's request for three additional "sets" of interrogatories and requests for
2 admissions is vague and overbroad, as the meaning of "a set" is not defined.

3 Finally, Plaintiff's argument that he is being held to an impossible standard for taking
4 depositions, while "the Defendant can just do it without any court reporter or any specific
5 requirements, via video conference" (ECF No. 62 at 2), is without merit. Plaintiff has been
6 repeatedly advised by the Court of the requirements he needs to meet to take depositions. (ECF
7 No. 34 at 2–3; ECF No. 53). Plaintiff failed to comply with Rules of Civil Procedure and the
8 Court's orders. On the other hand, Defendant properly noticed depositions that complied with the
9 requirements of Federal Rule of Civil Procedure 30 and provided for a court reporter. *See*
10 Defendant's Deposition Notices (ECF Nos. 60 at 5, 8, 16) (giving notice of depositions and
11 stating that the "deposition will be taken upon oral examination before a notary public or other
12 officer duly commissioned by the State of California to administer oaths by stenographic
13 method."). As to the depositions being taken via video conference, the Court's Scheduling Order
14 explicitly provided that "[p]ursuant to Federal Rule of Civil Procedure 30(b)(4), the parties may
15 take any deposition under this section by video conference without a further motion or order of
16 the Court, relieving the court reporter of the requirement to be in the physical presence of the
17 witness under Federal Rule of Civil Procedure 28(a)(1) during that deposition." (ECF No. 34 at
18 2). The same option remains available to Plaintiff, provided Plaintiff complies with the Court's
orders and Rules of Civil Procedure that have been repeatedly expounded by the Court.

19 **IV. WARNING REGARDING REPETITIVE FILINGS**

20 Plaintiff has filed numerous repetitive motions lacking legal and factual basis, including
21 two essentially identical motions that the Court addresses in this Order. Such filings waste the
22 Court's limited resources and delay the resolution of this action. After Plaintiff previously filed
23 repetitive motions for summary judgment that lacked legal basis and failed to comply with Rules
24 of Civil Procedure and Local Rules, the Court warned Plaintiff that "[f]uture motions for
25 summary judgment that do not comply with these rules may be summarily denied without
26 prejudice and subject Plaintiff to sanctions for vexatious litigation conduct." (ECF No. 39 at 3).
27 The Court now warns Plaintiff that filing any additional baseless or repetitive motions, needlessly
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1 multiplying the proceedings, wasting judicial resources, or otherwise submitting filings in bad
2 faith or for the purpose of harassment, may subject Plaintiff to sanctions notwithstanding his IFP
3 status. “Rule 11 is intended to deter baseless filings in district court and imposes a duty of
4 ‘reasonable inquiry’ so that anything filed with the court is ‘well grounded in fact, legally tenable,
5 and not interposed for any improper purpose.’” *Islamic Shura Council of So. Cal. v. F.B.I.*, 757
6 F.3d 870, 872 (9th Cir. 2014) (per curiam) (quoting *Cooter & Gell v. Hartmarx Corp.*, 496 U.S.
7 384, 393 (1990)).

8 **V. CONCLUSIONS AND ORDER**

9 Accordingly, IT IS ORDERED that Plaintiff’s motions for additional discovery (ECF No.
10 62, 66) are DENIED.

11 IT IS SO ORDERED.

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13 Dated: January 22, 2024

14 /s/ Eric P. Gray
15 UNITED STATES MAGISTRATE JUDGE
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